

THE HON'BLE MRS JUSTICE T.MEENA KUMARI
&
THE HON'BLE MR JUSTICE P.LAKSHMANA REDDY

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WRIT PETITION NO :20926 of 2005

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Dated: 30.09.2005

Between:

J. Appalaswamy, S/o Appanna.

..Petitioner

And

1. The Commissioner of Police, Visakhapatnam

and another **.. Respondents**

THE HON'BLE MRS JUSTICE T.MEENA KUMARI
&
THE HON'BLE MR JUSTICE P.LAKSHMANA REDDY

-

WRIT PETITION NO :20926 of 2005

ORDER:(Per Hon'ble Smt. Justice T. Meena Kumari)

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This writ petition is filed seeking a direction, in the nature of writ of mandamus, to set aside the order dated 22-8-2005 passed by the A.P. Administrative Tribunal in O.A.No.1395 of 2002.

The writ petitioner is the applicant in the O.A.

Originally, the present O.A., was filed by the applicant stating that due to his involvement in two cases for the offences under Section 498.A and 332 IPC respectively, a charge memo was issued to the applicant on 2.7.1996 and subsequently, basing on the conviction imposed against the applicant, he was dismissed from service. While so, in view of the fact that the applicant has succeeded in the appeals filed by him against the conviction and sentence, he was reinstated into service. However, the respondents are proceeding with the enquiry launched against him basing on the charge memo dated 2.7.1996.

The Tribunal while dismissing the said O.A. observed that the nature of the proceedings of dismissal basing on a conviction in a criminal case, is entirely different to that of the departmental enquiry, and therefore, the action of the respondents in proceeding with the disciplinary proceedings is justified. Aggrieved by the same, the present writ petition is filed.

The learned Counsel for the applicant argued that in view of the fact that the charges leveled against the applicant in the criminal proceedings as well as in the charge memo issued by the department are one and the same. He further contended that once the petitioner was exonerated from the charges and was reinstated into service basing on the acquittal on the said charges, the revival of charge memo dated 2.7.1996 issued by the 1st respondent, is not tenable and therefore, the order of the tribunal is liable to be set aside.

On the other hand, the learned Government Pleader for Home reiterating the contentions that were raised before the Tribunal contends that the order of the Tribunal is justified and it needs no interference by this Court.

Perused the material available on record.

There is no dispute as to the involvement of the applicant in criminal cases and also as to the dismissal on his conviction. Subsequently, basing on the acquittal in Criminal Appeals, the applicant was reinstated into service. However, basing on the charge memo in question, the departmental enquiry is being proceeded with.

The dismissal of the applicant as well as his reinstatement into service, is only a consequence of judicial proceedings. As a matter of fact, the charge memo,

which has been issued, is kept pending till the disposal of the criminal cases. That is the reason as to why the respondents could not proceed with the enquiry against the applicant.

In this background of the matter, we feel that the order of the Tribunal does not suffer from any illegality or irregularity, which warrants interference by this Court, and therefore, the writ petition is liable to be dismissed.

Accordingly, the writ petition is dismissed. However, the respondents are directed to complete the enquiry within a period of three months in accordance with the rules, from the date of receipt of a copy of this order. No order as to costs.

Justice T. Meena Kumari

Justice P. Lakshmana Reddy

Dated: 30.09.2005

Nn/Bud.